

REMARKS

Entry of the foregoing amendments after final rejection as narrowing the issues and presenting the claims in condition for allowance is respectfully solicited. The foregoing amendments after final rejection are being presented for the first time as a result of an agreement with the Examiner.

Claims 1-18, 20, 21, 27-34, 39-54, 56, 57, 59, 62-66, 68, 69, 71-88 are pending and at issue in the application with claims 1, 39, 50, 52, 54, 62, 75 and 76 being independent claims. Claims 39-41, 52, 54, 75 and 76 have been allowed. Claims 1, 50 and 62 have been amended. Claims 19, 23-26, 55 and 67 have been cancelled. Claims 77-88 have been added. As a result, 8 independent claims remain in the application as previously paid for, and 72 total claims now exist in the application as compared to the 74 total claims previously paid for. As a result, no additional fees are due. However, the Commissioner is hereby authorized to charge any additional fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 13-2855.

Each of claims 1-18, 20, 21, 27-34, 42-51, 53, 56, 57, 59, 62-66, 68, 69 and 71-74 recites a system or a method of monitoring an entity, or a plurality of entities, within a process plant that collects data pertaining to the operation of an entity, and that creates and/or displays a use index representing status information for each entity from the data. The recited use indices relate to one of an entity utilization or an entity variability.

APPLICANTS' INTERVIEW SUMMARY

On April 14, 2004, the applicants' attorney Aaron M. Peters (Reg. No. 48,801) conducted a telephonic interview with Examiner Elliot L. Frank in which independent claims 1, 50 and 62 were discussed. During that interview Examiner Frank indicated that claims 1, 50 and 62, and all claims dependent thereon, would be allowable if amended in the manner provided above in an after final Office action amendment, and indicated that this case would be allowable upon entry of the amendments and cancellation of claims 19, 23-26, 55 and 67. Thus, agreement was reached with respect to all the claims.

The Examiner agreed during the interview that Pyotsia et al. does not disclose or suggest creating or displaying use indices relating to either utilization or variability from data pertaining to the operation of the entity. While Pyotsia et al. discloses an "odometer" parameter and an "error" parameter (Col. 6, ln. 39-51), neither of these parameters is a use index created from data pertaining to the operation of an entity. Further, neither the odometer parameter nor the error parameter is indicative of entity utilization or entity variability.

In particular, the Examiner agreed that the odometer parameter is not the recited utilization index. The odometer parameter of Pyotsia et al. is a parameter that is collected and that may affect an index (i.e., a maintenance need index). (Col. 6, ln. 42-46). The odometer parameter is not an index in and of itself, and is not created from the collected data of Pyotsia et al. Further, the odometer parameter does not represent utilization of an entity. For example, an odometer would not indicate the degree to which an entity is exploited, or whether an entity was over-utilized or under-utilized. Thus, the Examiner and the applicants' attorney agreed that Pyotsia et al. does not disclose or suggest a use index created from data pertaining to the operation of an entity and relating to entity utilization as recited by claims 1-18, 20, 21, 27-34, 42-51, 53, 56, 57, 59, 62-66, 68, 69 and 71-74.


Further, the Examiner agreed that the error parameter is not the recited variability index. As above, the error parameter of Pyotsia et al. is a parameter that is collected and that may affect an index (i.e., a control performance index). (Col. 6, ln. 46-51). The error parameter is not an index in and of itself, and is not created from the collected data of Pyostia et al. Further, the error parameter does not represent variability of an entity. For example, Pyotsia et al. does not disclose that the error parameter indicates an amount of deviation of a parameter of an entity. As such, the Examiner and the applicants' attorney

agreed that Pyotsia et al. does not disclose or suggest a use index created from data pertaining to the operation of an entity and relating to entity utilization as recited by claims 1-18, 20, 21, 27-34, 42-51, 53, 56, 57, 59, 62-66, 68, 69 and 71-74.

Applicants gratefully appreciate the Examiner's assistance in helping to bring this application in condition for allowance. As such, amended independent claims 1, 50 and 62 and independent claims 39, 52, 54, 62, 75 and 76 are believed to be in allowable form, as indicated by the Examiner. Further, dependent claims 2-18, 20, 21, 27-34, 40-49, 51, 53, 56, 57, 59, 63-66, 68, 69, 71-74 and 77-88, which are dependent upon the aforementioned independent claims are also submitted to be in allowable form. Should the Examiner wish to discuss the foregoing, or any matter of form, the Examiner is urged to telephone the undersigned at the indicated number.

Respectfully submitted,

By:



Aaron M. Peters
Registration No.: 48,801

MARSHALL, GERSTEIN & BORUN LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6357
Tel.: (312) 474-6300
Fax.: (312) 474-0448

April 19, 2004